

SUPPORT FOR THE AMENDMENTS

Claim 13 is amended to correct an obvious clerical error.

Description from Claim 13 is added to each of Claims 17, 21 and 25.

No new matter is believed added to this application by entry of this amendment.

Claims 11-14 and 17-28 are active.

REMARKS/ARGUMENTS

The claimed invention provides a fluid dispensing container as described in independent Claims 13, 17, 21 and 25, and claims dependent thereon, and methods for preparing the respective fluid dispensing container according to Claims 13, 17, 21 and 25.

The claimed fluid dispensing container is simple in production, does not contain a pressurized gas, and yet provides the dispensing performance of an aerosol system. The low vapor pressure provided in the sealed container by the low-boiling liquid prevents formation of a vacuum in the container when the mixture is dispensed by the pump. This low vapor pressure serves to compensate for the volume of product dispensed and to rebalance the pressure inside the container to a value equivalent to atmospheric pressure. No such container is disclosed or suggested in the cited references.

Applicants wish to thank Examiner Ahvazi for withdrawal of the rejection of Claim 13 and his suggestion to amend Claims 17, 21 and 25 to also include the description: "the fluid dispensing container does not comprise a pressurized gas." Applicants note that Claims 17, 21 and 25 are so amended, herein.

The rejection of Claims 17-19, 21-23 and 25-27 under 35 U.S.C. 102(b) over Nakajima et al. (GB 1,537,436) is respectfully traversed.

Nakajima describes an airtight vessel which is pressurized with a gas (Claim 1). All the examples in Table 1 describe a pressurized air-tight vessel containing from 2.0 to 15.0 % by weight of a pressurized gas. Applicants respectfully submit that nowhere does this reference disclose or suggest a fluid dispensing container where the container is not pressured with a gas.

Nakajima clearly describes(page 2, lines 22-24):

Referring now to Figures 1 and 2 a mounting cap 101 is air-tightly fixed to the opening of an air-tight vessel 2 **filled with a pressurized gas** of a low pressure of up to 2 Kg/cm² as measured at 33°C . . . (Bold added for emphasis)

The reference actually states (page 4, lines 23 to 31) the importance of pressurizing the container as follows:

(2) Since the air-tight vessel is employed, a volatile content can be filled, and the spraying device can be used in the same manner as an aerosol-type spraying device and a similar effect or condition can be attained.

(3) Spraying is accomplished by the synergistic action of the mechanical pressurization of the piston and the pressure of the content per se.

In contrast, according to the present invention a fluid dispensing container is charged by adding the contents to a container as a liquid and no gas pressurization is employed.

Applicants note that the previous rejection of Claims 13 and claims dependent thereon has been withdrawn in view of the added description that the fluid dispensing container does not comprise a pressurized gas. The Office has acknowledged that Nakajima does not disclose or suggest a pressurized container not comprising a pressurized gas and has invited Applicants to include such language in Claims 17, 21 and 25 (Official Action dated February 25, 2010, page 7, Paragraph 9). Claims 17, 21 and 25 are herein amended to include the description suggested by the Office.

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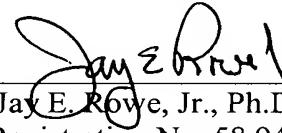
Accordingly, Applicants submit that the cited reference does not disclose or suggest a fluid dispensing container not comprising a pressurized gas, and cannot anticipate or render the present invention according to Claims 17, 21 and 25 obvious. Withdrawal of the rejection of Claims 17-19, 21-23 and 25-27 under 35 U.S.C. 102(b) over Nakajima is respectfully requested.

The provisional rejection of Claims 11-14, 17-20 and 21-28 on the ground of nonstatutory obviousness-type double patenting over copending U.S. Application 11/418,253 (issued as U.S. 7,717,303 on May 18, 2010) in view of Nakajima is believed obviated by the executed Terminal Disclaimer over U.S. 7,717,303 submitted herewith. Accordingly, Applicants respectfully request that the provisional rejection of Claims 11-14, 17-20 and 21-28 on the ground of nonstatutory obviousness-type double patenting be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for allowance and early notice of such action is earnestly solicited.

Respectfully submitted,

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